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**APPROVED BY COUNCIL
MARCH 20, 2019**

FINAL ACTION AGENDA/MINUTES

VILLAGE COUNCIL MEETING

**Village of Estero Council Chambers
9401 Corkscrew Palms Circle
Estero, FL 33928
March 6, 2019 9:30 a.m.**

1. CALL TO ORDER: 9:30 am

PLEDGE OF ALLEGIANCE

INVOCATION: Pastor John Roth - Thrive Community Church

ROLL CALL: Present: Mayor Jim Boesch - District 5, Vice Mayor Bill Ribble - District 1, Councilmember Howard Levitan - District 2, Councilmember Jon McLain - District 3, Councilmember Katy Errington - District 4, Councilmember Nick Batos - District 6, and Councilmember Jim Wilson - District 7.

Also present: Village Manager Steve Sarkozy, Village Attorney Burt Saunders, Assistant to Village Manager Kyle Coleman, Public Works Director David Willems, Finance Director Lisa Roberson, Community Development Director Mary Gibbs, and Deputy Village Clerk Tammy Duran.

2. APPROVAL OF AGENDA, ADDITIONS, AND DELETIONS

Motion: Move to approve the agenda.

Motion by: Councilmember Wilson

Seconded by: Vice Mayor Ribble

Action: Approved the agenda.

Vote:

Aye: Unanimous

Nay:

Abstentions:

3. PUBLIC COMMENT ON NON-AGENDA ITEMS: None

4. CONSENT AGENDA:

- (a) Financial Report for the Month Ended September 30, 2018**
- (b) Financial Report for the Month Ended January 31, 2019**
- (c) October 24, 2018 Council Meeting Minutes
October 31, 2018 Council Meeting Minutes
November 7, 2018 Council Meeting Minutes
November 28, 2018 Council Meeting Minutes
January 9, 2019 Council Meeting Minutes**

Public Comment: None

Motion: Move to approve the Consent Agenda.

Motion by: Councilmember Levitan
Seconded by: Councilmember Batos

Action: Approved the Consent Agenda.

Vote:

Aye: Unanimous

Nay:

Abstentions:

Questions or Comments: None

5. CONSIDERATION OF ITEMS DEFERRED FROM CONSENT AGENDA: None

6. ACTION ITEMS:

- (a) Discussion of Patty Whitehead as Member on Design Review Board**

Village Manager Sarkozy provided an introduction.

Village Attorney Saunders suggested to Councilmember Errington, she not be part of the discussions to avoid any perception of a conflict of interest. Councilmember Errington agreed and recused herself from the discussion and the vote. Village Attorney Saunders discussed the rules and procedures of council and advisory boards. He stated there are three options the Council can act on today: let Ms. Whitehead's term expire at the end of March, remove Ms. Whitehead from the board, or reappoint Ms. Whitehead when her term expires.

Questions or Comments: Mayor Boesch made the recommendation to end Ms. Whitehead's term on the board for the sake of establishing our highest credibility with the Village. Councilor Levitan said he would defend Ms. Whitehead's right to post her personal opinions about the government on Facebook, but he said her behavior discredited the Village. Councilor Batos said there are ramifications for what people post on social media.

Public Comment: None

Motion: Move to approve removing Patty Whitehead from the Design Review Board effective immediately.

Motion by: Vice Mayor Ribble

Seconded by: Mayor Boesch

Vote:

Aye: Councilmembers Levitan, McLain, Batos, Wilson, Vice Mayor Ribble, Mayor Boesch

Nay:

Abstentions: Councilmember Errington

Questions or Comments: Village Manager Sarkozy stated staff will immediately post the position.

7. PUBLIC COMMENT ON NON-AGENDA ITEMS: None

8. COUNCIL COMMUNICATIONS / FUTURE AGENDA ITEMS

Councilmember Batos informed the Council that the Estero Education Initiative distributed its first funds to the schools. Each school received six thousand dollars.

Councilmember Levitan suggested the Council send back the zoning case (Estero Crossing) that the Planning and Zoning Board were unable to make a decision on. He suggested the Planning and Zoning Board reschedule the vote when all seven members are there. Village Attorney suggested it be put on the next agenda and have a vote on whether Council should send it back to the Planning and Zoning Board.

9. VILLAGE ATTORNEY'S REPORT

Village Attorney Saunders stated that in reference to items discussed at the last meeting, he will provide sample ordinances on naming facilities. There is also a bill pending in the State that will prohibit local governments from regulating scooters on sidewalks.

10. VILLAGE MANAGER'S REPORT: None

Adjourn Regular Session and Convene Workshop Items: 10:02am

11. WORKSHOP ITEMS:

(a) Mine Studies Peer Review

Village Manager Sarkozy gave an introduction.

Consultant of Spikowski presented a PowerPoint presentation with a description on how mining activity occurs, mining related to the amount of growth, and compared the methodology of the Waldrop and Stuart Reports.

Questions or Comments: Councilmembers had a discussion on how to use this report, what is the best course of action the Village should take, putting a coalition together, and legal review of options.

Public Comment:

Susan Prock, Andore Lane, stated that knowledge is power and the Council should inform the public on their findings regarding how mining can affect our water supply.

Bill Carr, Carriage Court, is encouraged with Council's comments and their desire to preserve our clean water.

Kathy Dobash, Bacon Ave, is grateful to Council for acting on this issue and encourages them to keep fighting.

Robert King, ECCL, believes the proposed amendment on mining should not go through.

Joseph Stigliano, Tripoli Court, stated there are effects to their homes when mining occurs.

Greg Stuart, Stuart & Associates, representing Sakata Seed Corp., stated the county has enough lime rock for forty-two years and Lee County just pulled the public hearings regarding the mining.

Joel Avila, Ashcomb Way, stated Lee County should not dismiss this report.

Lou Frattarelli, Black Tree Lane, is against any changes to the Mining Comprehensive Plan.

Don Eslick, ECCL, feels any city that is downstream of the mining would be most impacted by it.

Peter Cangialosi, San Georgio Drive, feels Lee County is not communicating with the public.

The Council discussion included sending a letter to the Lee County Commissioners and contacting Commissioners individually. The Council requested the Village's Land Use Attorney provide a legal memorandum explaining options.

Consensus from Council.

(b) Design Review Board and Planning and Zoning Board Ordinance Amendment

Village Manager Sarkozy gave an introduction. Community Development Director Gibbs explained the amendment. The proposed changes are to allow Council and/or the Village Manager thirty days to file an appeal of Design Review Board decisions. This ordinance will also apply to the Planning and Zoning Board. Staff will provide a staff report to the Design Review Board to assist the board with their analysis. The ordinance will first go to Planning and Zoning Board for a recommendations and then it will be scheduled for the first and second readings.

Questions or Comments: Councilmember Batos asked if Community Development Director Gibbs can raise an appeal on her own. Village Attorney Saunders said she can through the Village Manager and explained Council can also raise an appeal.

Public Comment: None

There was consensus from Council to move forward.

(c) Stormwater Master Plan Update

Village Manager Sarkozy gave an introduction.

Elizabeth Fountain and Zac Taylor, J.R. Evans Engineering, presented a PowerPoint presentation regarding the problem areas, observations, most important areas that flood, explained the regional model, proposed nine projects that are important to address, and one maintenance project.

Questions or Comments: Councilmembers discussed how to get partnerships with communities that own some of the land that has been labeled as problem areas.

Public Comment: None

The meeting went into recess at 12:13 p.m. and reconvened at 12:20 p.m.

Don Duke, FGCU Department of Marine and Ecological Sciences, presented a PowerPoint presentation regarding FGCU “Communities in Transition” initiative Stormwater and Drainage Research.

Questions or Comments: Councilmembers suggested Professor Duke return with his students so Council can congratulate them on their work in person and also suggested that FGCU put together a log of all the different research projects that the University is doing so if Council or anyone else is looking for a particular research, they know who to reach out to.

12. ADJOURNMENT: 12:37 p.m.


ATTEST:

VILLAGE OF ESTERO, FLORIDA

By:


Kathy Hall, MMC, Village Clerk
on behalf of Kathy Hall

By:


Bill Ribble, Mayor

If you desire to address the Council, please complete a Public Comment Card and return it to the Village Clerk. Citizens desiring to speak must step up to the podium, state their full name and address, and whom he or she represents.

ADA Assistance – Anyone needing special assistance at the Board meeting due to a disability or physical impairment should contact Village Clerk Kathy Hall, 239-221-5033, at least 48 hours prior to the meeting.

Pursuant to Section 286.0105, Florida Statutes:

“If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a recording of the proceeding, and that, for such purpose, he or she may need to ensure that a verbatim recording of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.”

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Errington, Katy</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Village of Estero Council</i>
MAILING ADDRESS <i>19880 Breckenridge Dr., #307</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY <i>Estero FL Lee</i>	NAME OF POLITICAL SUBDIVISION: <i>District 4 - Estero</i>
DATE ON WHICH VOTE OCCURRED <i>March 6, 2019</i>	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Katy Errington, hereby disclose that on March 6, 2019, 20__ :

(a) A measure came or will come before my agency which (check one or more)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____ ;
- ☐ inured to the special gain or loss of my relative, _____ ;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

*Probable Cause of Conflict of Interest.
The Village of Estero District 4
election.*

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

March 7, 2019

Date Filed

Katy Errington

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.